

October 7, 2009

Jeffrey Walz, OID # 196142
Minnesota Correctional Facility – Lino Lakes
7525 Fourth Avenue
Lino Lakes, MN 55014

Krista Guinn Fink
Associate Legal Counsel
Minnesota Department of Corrections
1450 Energy Park Drive, Suite 200
St. Paul, MN 55108

RE: In the Matter of Jeffrey Walz; OAH Docket No. 11-1100-20833-2

Dear Mr. Walz and Ms. Fink:

I recently received the Notice of and Order for Hearing in the above matter. As you know, a telephone conference call has been scheduled to be held on **Wednesday, October 21, 2009**, commencing at **9:30 a.m.** In order to participate in this telephone hearing, you must call **1-866-762-1799** at that time, and enter the passcode **4769626#**.

If Mr. Walz disagrees with the Department's imposition of supervision fees, he must participate in the telephone conference call on October 21, 2009. If he does not participate, he will be deemed to be in default in this case. In that event, the allegations set forth in the Notice and Order for Hearing, the Motion for Summary Disposition filed by the Department, and the attachments to those documents will be taken as true and the Department will be authorized to collect (through revenue recapture by the Department of Revenue) the amount of \$180 for supervision fees.

During the conference call, we will discuss whether the Department of Corrections is authorized to collect \$180 for supervision fees as alleged in the Notice and Order for Hearing and the Motion for Summary Disposition. Because Mr. Walz presumably is not an attorney, he should be aware that a Motion for Summary Disposition is filed by a party if the party believes that

(1) there are no genuine issues of material fact requiring a hearing and (2) based on the undisputed facts, the party filing the motion is entitled to judgment as a matter of law. If a Motion for Summary Disposition is granted in its entirety, the party filing the Motion prevails without hearing further testimony or receiving further evidence. **In other words, if the Motion in this case is granted, no further hearing will be held and the Department will be authorized to collect \$180 through the revenue recapture process.**

In the Notice of Hearing and the Motion for Summary Disposition, the Department of Corrections is arguing that, under Minn. Stat. § 241.272 (copy enclosed) and Department Policy 201.013 (attached to Notice and Order for Hearing), offenders released to supervision in the custody of the Commissioner of Corrections are required to pay supervision fees. In this instance, the Department contends that Mr. Walz was placed under supervision for the offense of Criminal Sexual Conduct – Third Degree, and supervision fees were subsequently imposed. The Department asserted that Mr. Walz remains responsible for \$180 in such fees. To calculate the amount owing, the Department indicated that it deducted the previously-waived amount of \$120 from the typical fees of \$300 per felony case file. The Department maintains that there are no material facts in dispute regarding the supervision fees owed by Mr. Walz, and that the Department is entitled to judgment as a matter of law.

If he wishes to oppose the motion, Mr. Walz must participate in the telephone conference call on October 21 and provide argument or testimony to support his position that the motion should not be granted. He may, in addition, file a written response in opposition to the motion prior to the telephone conference call on October 21, 2009. Any written response should be submitted both to me and to Ms. Fink. In his testimony or written response, Mr. Walz should set forth any argument that he wishes to make that (1) genuine issues of material fact remain in dispute between the parties which make it necessary for the Judge to hold a hearing and make findings of fact; (2) the Department is not entitled to judgment as a matter of law due to the alleged inapplicability of the statute or policy relied upon by the Department or some other legal basis; (3) a continuance should be ordered; and/or (4) Mr. Walz is himself entitled to judgment as a matter of law. A party opposing the entry of summary judgment may not rely solely upon mere allegations or denials of the adverse party's pleadings but is required to present specific facts showing that there is a genuine issue for trial. Any written response filed by Mr. Walz in opposition to the

Letter to J. Walz and K. Fink
October 7, 2009
Page Three

Department's Motion may include a memorandum arguing that the Motion should not be granted and explaining the reasons for Mr. Walz's position, as well as supporting information such as pleadings and affidavits. If Mr. Walz wishes to rely upon facts that are within the personal knowledge of himself or others, he must provide testimony or submit affidavits of himself and others.

I am providing this information in the hope that it will be of some assistance to Mr. Walz in responding to the Department's Motion. Although legal representation is not required in this proceeding, Mr. Walz may wish to consult with an attorney in determining how to respond to the Motion for Summary Disposition even if he intends to represent himself during the conference call.

Sincerely,

s/Barbara L. Neilson

BARBARA L. NEILSON
Administrative Law Judge
Telephone: 651-361-7845

Enclosure